

103^D CONGRESS
2^D SESSION

S. 2310

To direct the Secretary of Health and Human Services to revise existing regulations concerning the conditions of payment under part B of the medicare program relating to anesthesia services furnished by certified registered nurse anesthetists, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 21 (legislative day, JULY 20), 1994

Mr. CONRAD (for himself and Mr. INOUE) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To direct the Secretary of Health and Human Services to revise existing regulations concerning the conditions of payment under part B of the medicare program relating to anesthesia services furnished by certified registered nurse anesthetists, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. REVISION OF CONDITIONS OF PAYMENT RE-**
2 **LATING TO ANESTHESIA SERVICES FUR-**
3 **NISHED BY CERTIFIED REGISTERED NURSE**
4 **ANESTHETISTS.**

5 (a) PROMULGATION OF REVISED REGULATIONS.—

6 The Secretary of Health and Human Services shall revise
7 any regulations describing the conditions under which pay-
8 ment may be made for anesthesia services under the medi-
9 care program so that—

10 (1) payment may be made for anesthesia serv-
11 ices furnished in a hospital or an ambulatory sur-
12 gical center by a certified registered nurse anes-
13 thetist who is permitted to administer anesthesia
14 under the law of the State in which the service is
15 furnished; and

16 (2) the conditions under which payment may be
17 made for a physician service consisting of the medi-
18 cal direction or medical supervision of a certified
19 registered nurse anesthetist—

20 (A) shall not restrict such nurse anes-
21 thetists working with anesthesiologists from
22 performing all the components of the anesthesia
23 service that such nurse anesthetists are legally
24 authorized to perform in the State in which the
25 service is furnished; and

1 (B) shall prevent fraud and abuse in pay-
2 ment for the services by requiring that the phy-
3 sician providing medical direction or medical
4 supervision must be physically present in the
5 facility where the certified registered nurse an-
6 esthetist's services are performed and must be
7 available in a timely manner for consultation or
8 assistance if indicated.

9 (b) CONSULTATION REQUIRED.—The Secretary shall
10 revise the regulations referred to in subsection (a)(2) only
11 after consultation with representatives from professional
12 associations of certified registered nurse anesthetists and
13 anesthesiologists.

14 (c) EFFECTIVE DATES.—

15 (1) IN GENERAL.—The revisions to the regula-
16 tions referred to in subsection (a) shall apply to an-
17 esthesia services furnished on or after January 1,
18 1995.

19 (2) TERMINATION OF REGULATIONS ON MEDI-
20 CAL DIRECTION OR SUPERVISION.—The revised reg-
21 ulations referred to in subsection (a)(2) shall not
22 apply to services furnished on or after January 1,
23 1998.

1 **SEC. 2. ENSURING PAYMENT FOR PHYSICIAN AND CER-**
2 **TIFIED REGISTERED NURSE ANESTHETIST**
3 **FOR JOINTLY FURNISHED ANESTHESIA SERV-**
4 **ICES.**

5 (a) PAYMENT FOR JOINTLY FURNISHED SINGLE
6 CASE.—

7 (1) PAYMENT TO PHYSICIAN.—Section
8 1848(a)(4) of the Social Security Act (42 U.S.C.
9 1395w-4(a)(4)), as added by section 13516(a) of
10 the Omnibus Budget Reconciliation Act of 1993
11 (hereafter referred to as “OBRA-1993”), is amend-
12 ed by adding at the end the following new subpara-
13 graph:

14 “(C) PAYMENT FOR SINGLE CASE.—

15 “(i) IN GENERAL.—Notwithstanding
16 section 1862(a)(1)(A), if—

17 “(I) physicians’ services consist-
18 ing of the furnishing of anesthesia
19 services for a single case are furnished
20 jointly with a certified registered
21 nurse anesthetist, and

22 “(II) the carrier determines that
23 the use of both the physician and the
24 certified registered nurse anesthetist
25 was not medically necessary,

1 the fee schedule amount for the physicians'
2 services shall be equal to the applicable
3 percentage of the fee schedule amount ap-
4 plicable under this section for anesthesia
5 services personally performed by the physi-
6 cian alone (determined without regard to
7 this subparagraph).

8 “(ii) APPLICABLE PERCENTAGE.—For
9 purposes of clause (i), the applicable per-
10 centage is the percentage (as determined
11 in a manner to be provided by the Sec-
12 retary) of the jointly furnished anesthesia
13 services which were actually furnished by
14 the physician.

15 “(iii) LIMITATION.—The Secretary
16 shall establish procedures that ensure that
17 the sum of the fee schedule amounts deter-
18 mined under clause (i) and section
19 1833(l)(4)(B)(iv) for a jointly furnished
20 anesthesia service shall not exceed 100
21 percent of the fee schedule amount applica-
22 ble under this section for anesthesia serv-
23 ices personally performed by the physician
24 alone (determined without regard to this
25 subparagraph).”.

1 (2) PAYMENT FOR CRNA.—Section
2 1833(l)(4)(B) of such Act (42 U.S.C.
3 13951(l)(4)(B)), as added by section 13516(b) of
4 OBRA–1993, is amended by adding at the end the
5 following new clause:

6 “(iv)(I) Notwithstanding section 1862(a)(1)(A), if—

7 “(aa) certified registered nurse anesthetist serv-
8 ices consisting of the furnishing of anesthesia serv-
9 ices for a single case are furnished jointly with a
10 physician, and

11 “(bb) the carrier determines that the use of
12 both the certified registered nurse anesthetist physi-
13 cian and the physician was not medically necessary,
14 the fee schedule amount for the services furnished by the
15 certified registered nurse anesthetist shall be equal to the
16 applicable percentage of the fee schedule amount applica-
17 ble under section 1848 for anesthesia services personally
18 performed by the physician alone (determined without re-
19 gard to section 1848(a)(4)(C)).

20 “(II) For purposes of subclause (I), the applicable
21 percentage is the percentage (as determined in a manner
22 to be provided by the Secretary) of the jointly furnished
23 anesthesia services which were actually furnished by the
24 certified registered nurse anesthetist.

1 “(III) The Secretary shall determine the fee schedule
 2 amount under subclause (I) in accordance with the proce-
 3 dures established by the Secretary under section
 4 1848(a)(4)(C)(iii).”.

5 (3) EFFECTIVE DATE.—The amendments made
 6 by paragraphs (1) and (2) shall apply to services
 7 furnished on or after January 1, 1995.

8 (b) UNIFORM TREATMENT OF ALL MULTIPLE CON-
 9 CURRENT CASES.—

10 (1) IN GENERAL.—Section 1848(a)(4) of such
 11 Act (42 U.S.C. 1395w-4(a)(4)) and section
 12 1842(b)(13) of such Act (42 U.S.C. 1395u(b)(13)),
 13 as amended by section 13516(a) of OBRA-1993,
 14 are each amended—

15 (A) by striking “two, three, or four” each
 16 place it appears and inserting “two or more”;
 17 and

18 (B) by inserting “or medical supervision”
 19 after “medical direction” each place it appears.

20 (2) EFFECTIVE DATE.—The amendments made
 21 by paragraph (1) shall apply to services furnished on
 22 or after January 1, 1998.

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